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KAGAN BINDER, PLLC SUITE 200, MAPLE ISLAND BUILDING 221 MAIN STREET NORTH STILLWATER, MN 55082			EXAMINER THAKUR, VIREN A	
			ART UNIT 1761	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,043

Applicant(s)

GILBERT ET AL.

Examiner

Viren Thakur

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 19,20,27 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18,21-26,28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/14/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species Ia, Species IIa and a firming agent as a stabilizer, in the reply filed on May 17, 2007 is acknowledged.

The traversal is on the ground(s) that the Office Action has not sufficiently demonstrated the reasons why each invention as claimed is either independent or distinct from the other; and the reasons why there would be a serious burden on the examiner if restriction were not required. Applicant's arguments have been fully considered but are not found persuasive.

The Examiner respectfully asserts that Applicant is referencing sections of the MPEP that are directed to a restriction between the statutory classes of invention. As stated in the restriction requirement, the Office has established a *prima facie* case indicating the patentably distinct species.

As stated in MPEP 808.01(a) where there is no disclosure of a relationship (i.e. generic claim) between species, they are independent inventions. A requirement for restriction is permissible if there is a patentable difference between the species as claimed and there would be a serious burden on the examiner if restriction is not required. In this case, there is no disclosure of a relationship between the species.

Regarding establishing a burden, commonality is not the grounds for determining the burden for searching the species. In order to be species, there must exist a commonality. However, the species would also require vastly different searches, as each species would not necessitate a search for the other species. In addition, since each species would require vastly different searches, even if there was commonality, the Office has established substantial burden, thus requiring an election of species. Thus the Office has determined that there is a substantial burden to search both sets of groups of species.

Even further still, in traversal of a species restriction, Applicant has not provided evidence or identified such evidence that would show the species to be obvious variants or clearly admit on the record that this is the case. Applicant's traversal has not provided

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any substantiation of this, therefore the restriction requirement is still deemed proper and is therefore made FINAL.

2. Regarding the election of species, Applicant submitted that claims 1-20 and 23-29 are readable on the elected species (Species Ib), however, claims 19-20 and 29 read on the non-elected species of wherein the vegetable is infused. Furthermore, claim 27 reads on the non-elected species of wherein the dehydrating is performed before the treating step (Species IIb). These claims are withdrawn from consideration.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1-2, 21, 22, 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Instant claims 1-2 and 23-24 recite the limitation "slow cooker." Although slow cookers are well known to refer to crock pot type cookers, such language could also be broadly interpreted to include cooking in an oven or over gas burner that results in a lengthened cooking time at low temperatures. For example, simmering over a gas burner or baking at low temperatures within an oven can be considered two types of slow cookers.

Claims 21 and 22 recite the limitation "a size that is not capable of." The claims are unclear as to what size is considered one that is not capable of rehydration under quick reconstituting conditions.

Claim Rejections - 35 USC § 102 and 103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 1-3,5-9, 12-16, 21-22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pack Lite Foods.**

Regarding instant claim 1, Pack Lite Foods discloses packaged dehydrated meals. The packages can be dinners, such as a wild ride dish, pasta primavera, chili and jambalaya (see the Menu and Meals - Dinner packages). Regarding the dehydrated vegetable having an exterior surface composed of a hardened closed cell structure and wherein at least 25 percent of the surface area comprises the closed cell “vitreous” material, the Examiner asserts that the dehydrated products of Pack Lite Foods would inherently have resulted in the formation of such a layer since the prior art discloses using dehydration or freeze-drying to prepare the dehydrated packaged meal. Even further, Applicant has appeared to acknowledge that the patentable feature of the instantly claimed invention does not rely on the means for dehydration – the dehydration method is not critical (See Page 9, Lines 21-29 of Applicants’ specification). In addition, Applicant appears to recognize that as a general result of preparing dehydrated foods,

case hardening occurs (although appearing to be undesirable). Therefore, absent any clear and convincing evidence to the contrary, by using dehydration or freeze-drying the dehydrated vegetables of Pack Lite Foods would also have achieved the result of case hardening around the outside of the food.

Further regarding instant claims 2, 3 and 24 and in light of the discussion above, the property of having at least 25 percent case hardening would have been a naturally occurring property of performing a dehydration step. As stated above, Applicant appears to acknowledge that products undergo changes during drying and thus results in the formation of a vitreous like material on the outer surface of the dehydrated food product. Thus, absent any clear and convincing evidence, the Examiner asserts that having at least 25 percent of the surface of the food product having a vitreous like material would have naturally formed as a result of dehydration. Nevertheless, Applicant is invited to provide clear and convincing evidence that dehydration, which Applicant appears to acknowledge results in case hardening would not also result in the desired property of at least 25 percent of the surface of the dehydrated vegetable comprising a hardened surface.

Regarding the limitation of instructions for preparing the meal, in instant claims 1, 2, 21, 23 and 24, the Examiner further asserts that instructions would not impart patentability to the instantly claimed invention, since one would necessarily have to follow some steps in order to cook the product. It is noted that indicia or the conveyance of a message and the specifics of the message would not impart patentability to a product claim. In the alternative, since the product of Pack Lite Foods is a packaged meal, the Examiner asserts that it would have been obvious to have included instructions for how to cook the product for the purpose of achieving the best rehydration results.

Regarding instant claim 3 and 13, Pack Lite Foods discloses wherein the dinner packages comprise an assortment of more than one type of dehydrated vegetable product (see Menu and Meals - Dinner Packages). Further regarding instant claim 13, Pack Lite Foods discloses using a stabilizer such as sodium silico aluminate or silicon dioxide, which prevents caking, thus stabilizing the product (see Nutrition and Ingredients). Nevertheless, even ingredients such as salt act as a stabilizer since it has

been well known in the art that salt acts as a natural preservative for foods and draws moisture away from the product to which it is applied.

Regarding instant claims 6-9, it is noted that seasoning compositions can include a broad range of ingredients, such as salt, sugar, spices and other ingredients that add flavor to the food. In light of this Pack Lite Foods discloses adding seasoning compositions which are packaged together with the dehydrated vegetables (see Nutrition and Ingredients – Ingredients).

Regarding instant claim 12, salt and anti-caking agents are considered stabilizing agents since they providing stability in acting as a natural preservative and prevent caking on the product. Thus, Pack Lite Foods, discloses a stabilizer, as recited in instant claim 12. Regarding instant claims 14-16, since the package contains salt and anti-caking agents in combination with the assortment of dehydrated vegetables, the stabilizer for the entire package and thus each of the dehydrated vegetables is the same. Further regarding instant claims 15 and 16, salt is considered a firming agent since it has been known for drying purposes. By removing moisture from a product, salt would naturally have firmed the dehydrated vegetables.

Regarding the moisture replacement value, as recited in instant claims 5, 21 and 22, the Examiner asserts the level of rehydration would also have been a property of the formation of the vitreous case hardening. Thus, as discussed above, and absent any clear and convincing evidence to the contrary, since dehydration used by the prior art would naturally result in the formation of case hardening then an intrinsic property of the case hardening would have been having the desired moisture replacement value.

8. Claims 1-5, 21-24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Webb et al. (US 4006260).

Regarding instant claims 1, 2, 21, Webb et al. disclose packaging (Column 16, Lines 33-36) dehydrated vegetables that comprise a case hardening on the outer surface thereof (Column 5, Line 56 to Column 6, Line 6; Column 11, Lines 7-16 and Column 29, Lines 54-63). Regarding instant claim 2, it is noted that since Webb et al. disclose wherein the dehydrated vegetable forms a case hardened outer skin, that the outer covering and thus at least 25 percent of the outer surface is comprised of a

vitreous like material. Even further, since Webb et al. disclose the dehydrated product as recited in instant claim 1, absent any clear and convincing evidence to the contrary, the dehydrated product would naturally have at least a 25 percent case hardened (vitreous) surface. This is further supported by the fact that Applicant appears to indicate that the method for dehydration is not critical (Page 9, Lines 21-29).

Additionally, Applicant recognizes that as a general result of preparing dehydrated foods, case hardening occurs (although appearing to be undesirable) (Page 2, Lines 1-7; Page 3, Lines 1-10). Therefore, by using dehydration or freeze-drying the dehydrated vegetables of Webb et al. would also have the instantly recited amount (at least 25 percent) of the case hardened (vitreous) outer surface.

Regarding the limitation of instructions for preparing the meal, in instant claims 1, 2, 21, 23 and 24, the Examiner further asserts that instructions would not impart patentability to the instantly claimed invention, since one would necessarily have to follow some steps in order to cook the product. It is noted that indicia or the conveyance of a message and the specifics of the message would not impart patentability to a product claim. In the alternative, since the product of Webb et al. is a packaged product, the Examiner asserts that it would have been obvious to have included instructions for how to reconstitute/rehydrate the product for the purpose of achieving the best rehydration results.

Regarding instant claims 3 and 22, Webb et al. disclose packaging an assortment of dehydrated vegetable products (Column 16, Lines 33-39 and Lines 50-52). Regarding instant claim 4, Webb et al. disclose a moisture content of 5 percent (Column 16, Line 38).

Regarding instant claims 5 and 21, it is noted that a moisture replacement value of 80 percent or greater is a property of the dehydrated vegetable having the case hardened outer surface. Therefore, since Webb et al. teach a dehydrated vegetable product having a case hardened (vitreous) outer surface and wherein said case hardening is at least 25 percent of the outer surface, said dehydrated vegetable would intrinsically have the same properties as that of the instantly recited claims. That is, the property of a moisture replacement value of 80 percent or more would naturally have resulted by achieving the same dehydrated, vitreous product as instantly claimed. Regarding having dehydrated vegetable product that is not capable of rehydration under

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quick reconstituting conditions, the Examiner asserts that the ability for how the dehydrated vegetable product is reconstituted is merely an intended use of the product. Therefore, since the prior art discloses the structure of the dehydrated vegetable, said prior art would intrinsically have been capable of the intended use. That is, reconstituting under long reconstituting conditions. Harrington et al. is relied on as further evidence that case hardened dehydrated vegetable products require long reconstitution times (Column 1, Lines 42-48).

Regarding instant claims 23-24, it is noted that the method for preparing the meal kit is the obvious method for assembling the package. Additionally, Webb et al. disclose dehydrating the vegetable (Column 11, Lines 4-27) and then sending the dehydrated vegetable for packaging (Column 15, Lines 57-64). Therefore, Webb et al. provide a vegetable, dehydrate said vegetable and package said dehydrated vegetable.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 23-25 are rejected under 35 U.S.C. 103(a) as obvious over Pack Lite Foods in view of Webb et al. (US 4006260).

Pack Lite Foods is taken as cited above in paragraph 7.

Pack Lite Foods teaches wherein the vegetable product is dehydrated but is silent in explicitly teaching the method steps of providing a vegetable product, dehydrating said vegetable product and packaging said vegetable product.

As discussed above, Webb et al. teach that it has been well recognized in the prior art to dehydrate a vegetable and then package said vegetable.

Regarding the method for preparing a meal kit as recited in instant claims 23 and 24, the Examiner asserts that providing a vegetable and packaging the dehydrated vegetable are the inherent steps of providing the packaged meal of Pack Lite Foods. Webb et al. is relied on to further teach that the concept of dehydrating and then packaging a vegetable has been a well established means for providing a packaged food product.

Regarding instant claim 25, as cited above in paragraph 7, Pack Lite Foods discloses using salt, preservatives and anti-caking agents, which are well known to be stabilizing agents.

12. Claims 1-2, 23, 24 are rejected under 35 U.S.C. 103(a) as obvious over Bosley et al. (US 3988953).

Regarding instant claims 1, 2, 23, 24, Bosley et al. teaches the steps of dehydrating a vegetable product, case hardening occurs in the vegetable (Column 2, Line 66 to Column 3, Line 4). Regarding the percentage of the surface of the dehydrated vegetable comprising the vitreous material, the examiner asserts that based on the disclosure of Bosley et al. that the case hardening would have resulted on the entire surface of the food product. Nevertheless, as discussed above, the case hardening would naturally have occurred in the prior art, at the levels disclosed by applicant, since it appears that Applicant has acknowledged that the method of dehydrating is not critical, yet this same dehydration method would have resulted in at least 25 percent case hardening. As a result, since Bosley et al. teach dehydrating, the dehydrated product would intrinsically have resulted in at least the amount of case hardening disclosed by Applicant.

Bosley et al., however, is silent in teaching wherein the dehydrated product is packaged but teaches that dehydrated potato products have been known to be packaged as part of another product such as soups, stews and hash (Column 2, Lines 7-12). Bosley et al. further teach that packaging dehydrated products has been known in the art and further teaches that the dehydration steps occur within the canning industry (Column 3, Lines 15-17). Therefore, it would have been obvious to the ordinarily skilled artisan to package the dehydrated potato within a kit, since Bosley et al. teach the commonality of packaging dehydrated potato segments within packages of soups, stews and hash. Such packaged kits have been well known to provide extended convenience to the consumer so that the consumer would not have to purchase individual ingredients for preparing a soup, stew or hash.

Regarding the instructions, the Examiner asserts that indicia on a packaging and instructions that provide a message would not have imparted a patentable feature over the prior art. Since the dehydrated product of Bosley et al. are intended to be reconstituted and thus consumed, it would have been obvious to one having ordinary skill in the art that steps, or instructions of some kind, would have to have been followed for reconstituting the dehydrated vegetables.

Regarding instant claims 23 and 24, the Examiner asserts Bosley et al. teach that dehydrated vegetables, such as potatoes have been known in the art to be packaged as part of another product (Column 2, Lines 7-12). This teaches the ordinarily skilled artisan that the dehydrated vegetable product would have first been provided and dehydrated and then packaged as part of another product. Thus, it would have been obvious to one having ordinary skill in the art to perform the obvious steps of dehydrating the vegetable product and then packaging said vegetable product.

13. Claims 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosley et al. (US 3988953) in view of USA Emergency Supply.

Bosley et al. is taken as applied above.

Bosley et al. is silent in teaching wherein the meal kit comprises an assortment of more than one type of dehydrated vegetable product.

However, Bosley et al. teaches that dehydrated potato segments are incorporated into packages for soups, stews and hash, for example (Column 2, Lines 7-12). Additionally, Bosley et al. teach dehydrating vegetables such as potatoes (Example 2) and carrots (Example 8). USA Emergency Supply teaches a method for beef stew which comprises more than one dehydrated vegetable. In this case, USA Emergency Supply teaches dried potato slices and dehydrated garden peas (see Beef Stew under Cheryl's Recipes). Therefore, USA Emergency Supply teaches that multiple dehydrated vegetables have been well known to be applied to stews. Bosley et al. teach packaging dehydrated potatoes in packaged stews and further teach that the process is capable of dehydrating other vegetables. Thus, it would have been obvious to the ordinarily skilled artisan to package more than one dehydrated vegetable since Bosley et al. teach packaging stews and since USA Emergency Supply teaches that stews comprise multiple dehydrated vegetables. Such a modification would have provided extended convenience to the consumer so that the consumer would not have to purchase individual ingredients for preparing a soup, stew or hash.

Regarding instant claim 4, Bosley et al. teach wherein disclosed dehydration method results in the vegetables having 7.2 moisture (Column 5, Lines 56-57) and 8 percent (Column 6, Lines 66-67).

Regarding instant claim 5, it is noted that since Bosley et al. teach a dehydrated product comprising a coating of a vitreous case hardening, that absent any clear and convincing evidence to the contrary, the dehydrated product of Bosley et al. would have achieved the same moisture replacement value as that of the instantly claimed invention. Since Bosley et al. teach the product as recited in the instant claims, the dehydrated vegetable of Bosley et al. would necessarily also exhibit the similar properties as that of the instantly claimed invention. Thus, Bosley et al.'s dehydrated vegetable would also have 80 percent moisture replacement.

- 14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bosley et al. (US 3988953) in view of USA Emergency Supply, as applied to claims 3 and 4, above, and in further view of Morton et al. (US 3295995).**

Bosley et al. are taken as applied above.

Bosley et al. are silent in teaching wherein the moisture replacement value is 80 percent or more.

However, Bosley et al. teach that the dehydrated vegetable as a result of the taught process results in picking up to 50 percent more moisture in the final reconstituted product (Column 3, Lines 19-21).

Morton et al. teach desiring complete rehydration (Column 1, Lines 17-18) in a dehydrated vegetable and further wherein the dehydrated vegetable comprises moisture from between 5 to 25 percent (Column 4, Lines 11-16). To the ordinarily skilled artisan it would have been obvious that complete rehydration refers to replacing the moisture that was initially present prior to dehydration. Additionally the dehydrated vegetable of Morton et al. is similar to that of Bosley et al., since Morton et al. also teach a case hardening on the outer surface thereof (Column 1, Lines 55-64). Morton et al. further teach wherein similarly dehydrated vegetables such as carrots and potatoes have excellent flavor upon reconstitution (Column 6, Lines 59-66) and further also result in complete hydration (Column 7, Lines 1-4 and Lines 11-14). Morton et al. thus teach that case hardened vegetables such as carrots and potatoes can be completely rehydrated, thus having greater than 80 percent moisture replacement. Although some of the sizes of the product of Morton et al. might vary from that of Bosley et al., Bosley et al. further teach that the method of dehydration also results in a 50 percent improvement in moisture when reconstituting. Therefore, based on the knowledge of the ordinarily skilled artisan in combination with the additional teachings of Morton et al. it would have been obvious that the dehydrated vegetables of Bosley et al. would have had a moisture replacement value of at least 80 percent.

- 15. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosley et al. (US 3988953) in view of USA Emergency Supply, as applied to claims 3 and 4, above, and in further view of Pack Lite Foods.**

Bosley et al. is taken as applied above.

Bosley is silent in teaching wherein the meal kit comprises seasoning composition.

Nevertheless, USA Emergency Supply teaches adding seasoning compositions, such as tomato powder (see Beef Stew under Cheryl's Recipes) which is a dehydrated

tomato product. Pack Lite Foods further teaches that it has been known in the prior art to seasonings within a dehydrated meal kit (See the packaged Dinners and the ingredients for the packaged dinners). As discussed above, since modified Bosley et al. teach packaging dehydrated foods in combination with another product, such as a stew, soup or hash, it would have been obvious to one having ordinary skill in the art, based on the teachings of USA Emergency Supply and Pack Lite Foods, to provide seasonings for the purpose of adding flavor to the meal, when said meals is rehydrated. Regarding instant claims 8 and 9, it would have been obvious, based on the teachings of Pack Lite Foods to package said seasoning with the dehydrated vegetables for the purpose of providing a convenient kit that contains all the ingredients necessary for making the meal.

Regarding instant claims 10 and 11, the teachings of Bosley et al. and Pack Lite Foods are silent in disclosing the moisture content of the entire package, comprising the dehydrated vegetable and the seasoning composition and further wherein said moisture is 8 percent or less.

Nevertheless, Bosley et al. teach reducing the moisture of the dehydrated vegetable to less than 8 percent, as discussed above. Emergency Supply teaches that when the moisture levels are reduced to 2 to 3 percent (See Introduction), the storage life would have been increased to several years for the dehydrated product. Therefore, it would have been obvious to lower the moisture content within the entire package for the purpose of extending the shelf life of the dehydrated kit.

- 16. Claims 12, 15, 17, 25, 26, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosley et al. (US 3988953), as applied to claims 1-2, 23, 24 above, and in further view of Willard (US 3634095) and Iggoe (The Dictionary of Food Ingredients).**

Bosley et al. are taken as applied above.

Bosley et al. are silent in teaching wherein the meal kit includes a stabilizer, as recited in instant claim 12 and 25, and further wherein the stabilizer is a firming agent, as recited in instant claim 15 and wherein the stabilizer is provided as a coating on the surface of the dehydrated vegetable product, as recited in instant claim 17 and wherein

the treating with a stabilizer is performed prior to dehydration, as recited in instant claim 26.

Willard teaches a process for dehydrating potatoes wherein prior to dehydration, the potatoes are blanched and then treated with calcium chloride (Column 3, Lines 1-6). Thus Willard teaches that it has been well known in the art to apply a preservative which would cover the potatoes prior to dehydration. When the moisture is removed during dehydration, it would have been obvious that the preservatives would have coated said dehydrated product. Such an application would have resulted in the prevention of microbial growth on the potato. Nevertheless, the Dictionary of Food Ingredients is relied on as additional evidence that calcium chloride has been a well known firming agent applied to potatoes that have been packaged. Therefore, based on these teachings it would have been obvious to one having ordinary skill in the art to add calcium chloride to the vegetables of Bosley et al. for the purpose of firming the product. Since calcium chloride is a salt, it would have been obvious that such as salt would aid in drying the dehydrated product, thus preventing the growth of bacteria.

- 17. Claims 13, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bosley et al. (US 3988953) in view of Willard (US 3634095) and Igoe (The Dictionary of Food Ingredients), as applied to claims 12, 15, 17, 25, 26, 28 above, and in further view of USA Emergency Supply.**

Bosley et al. is silent in teaching wherein the meal kit comprises an assortment of more than one type of dehydrated vegetable product, as recited in instant claim 13.

However, Bosley et al. teaches that dehydrated potato segments are incorporated into packages for soups, stews and hash, for example (Column 2, Lines 7-12). Additionally, Bosley et al. teach dehydrating vegetables such as potatoes (Example 2) and carrots (Example 8). USA Emergency Supply teaches a method for beef stew which comprises more than one dehydrated vegetable (see Beef Stew under Cheryl's Recipes). In this case, USA Emergency Supply teaches dried potato slices and dehydrated garden peas. Therefore, USA Emergency Supply teaches that multiple dehydrated vegetables have been well known to be applied to stews. Bosley et al. teach packaging dehydrated potatoes in packaged stews and further teach that the taught process is capable of dehydrating other vegetables. Thus, it would have been obvious

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to the ordinarily skilled artisan to package more than one dehydrated vegetable since Bosley et al. teach packaging stews and since USA Emergency Supply teaches that stews comprise multiple dehydrated vegetables. Such a modification would have provided extended convenience to the consumer so that the consumer would not have to purchase individual ingredients for preparing a soup, stew or hash.

The limitations of instant claims 16 and 18 are taken as applied to instant claims 15 and 17 above in paragraph 16.

- 18. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bosley et al. (US 3988953), as applied to claims 1-2, 23, 24, above, and in further view of Harrington et al. (US 2729566).**

Bosley et al. is taken as applied above. Bosley et al. are silent in explicitly teaching a size that is not capable of rehydration to replace at least 80 percent of the previously removed moisture under quick reconstituting conditions, as recited in instant claim 21.

In light of the rejection under 112, second paragraph above, Bosley et al. teach a size that would not be capable of rehydration under quick reconstituting conditions. This is further supported by the fact that Bosley et al. teach that the size of the dehydrated vegetables can be thicker than 3/8 of an inch. Therefore, there would have been a reasonable expectation of success that larger pieces of vegetables, such as those used in stews would have been successfully dehydrated and reconstituted based on the teachings of Bosley et al.

Regarding the ability to replace 80 percent of the moisture, it is noted that since Bosley et al. teach a dehydrated product comprising a coating of a vitreous case hardening, that absent any clear and convincing evidence to the contrary, the dehydrated product of Bosley et al. would have achieved the same moisture replacement value as that of the instantly claimed invention. Since Bosley et al. teach the product as recited in the instant claims, the dehydrated vegetable of Bosley et al. would necessarily also exhibit the similar properties as that of the instantly claimed invention. Thus, Bosley et al.'s dehydrated vegetable would also have 80 percent moisture replacement. Even further still, Harrington et al. is relied on as further evidence that the prior art has recognized that case hardening of vegetables, such as potatoes,

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requires longer rehydration times (Column 1, Lines 42-47). Therefore, it would have been obvious that the vegetables of Bosley et al. not have been capable of quick reconstituting conditions.

- 19. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bosley et al. in view of Harrington et al. (US 2729566), as applied to claim 21 above, and in further view of USA Emergency Supply.**

Bosley et al. is taken as applied above.

Bosley et al. is silent in teaching wherein the meal kit comprises an assortment of more than one type of dehydrated vegetable product.

However, Bosley et al. teaches that dehydrated potato segments are incorporated into packages for soups, stews and hash, for example (Column 2, Lines 7-12). Additionally, Bosley et al. teach dehydrating vegetables such as potatoes (Example 2) and carrots (Example 8). USA Emergency Supply teaches a method for beef stew which comprises more than one dehydrated vegetable (See Beef Stew under Cheryl's Recipes). In this case, USA Emergency Supply teaches dried potato slices and dehydrated garden peas. Therefore, USA Emergency Supply teaches that multiple dehydrated vegetables have been well known to be applied to stews. Bosley et al. teach packaging dehydrated potatoes in packaged stews and further teach that the taught process is capable of dehydrating other vegetables. Thus, it would have been obvious to the ordinarily skilled artisan to package more than one dehydrated vegetable since Bosley et al. teach packaging stews and since USA Emergency Supply teaches that stews comprise multiple dehydrated vegetables. Such a modification would have provided extended convenience to the consumer so that the consumer would not have to purchase individual ingredients for preparing a soup, stew or hash.

- 20. Claim 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over USA Emergency Supply.**

Regarding instant claim 30, USA Emergency Supply teaches a dehydrated vegetable, dried potato slices (See Beef Stew), wherein said dehydrated vegetable is

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placed in a crock pot for several hours. Based on the concept of cooking in a crock pot, it would have been obvious to one having ordinary skill in the art that crock pot cooking uses low temperature heat and for a duration of at least four hours. Busy Cooks is relied on as further evidence of long hours and low temperatures for cooking, for example, a beef stew in a crock-pot.

USA Emergency Supply is silent in teaching wherein the dehydrated vegetables have a moisture content of 12 percent or less, as recited in instant claim 30; wherein the moisture content is less than 8 percent, as recited in instant claim 31; wherein the method comprises an assortment of more than one type of dehydrated product having a moisture content of 12 percent or less.

Nevertheless, USA Emergency Supply further teaches that moisture levels of 2 to 3 percent increases the storage life to several years. Therefore, it would have been obvious to the ordinarily skilled artisan, based on these teachings to lower the moisture content for the purpose of ensuring that the dehydrated vegetables have extended shelf lives. Such a modification would have ensured that the dehydrated food product would remain fresh for extended periods of time (prior to rehydration).

Further regarding instant claim 32, USA Emergency Supply teaches dried potato sliced and dehydrated peas.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viren Thakur whose telephone number is (571)-272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571)272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Art Unit: 1761

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8/20/07